

**PAYPHONE COMPENSATION RECONSIDERATION ISSUES
IN CC DOCKET NO. 96-128**

- One Call Communications, Inc. provides operator and long distance services to over 180,000 payphones and call aggregator telephones across the U.S. One Call has been in business for 18 years, and as other operator service providers have gone out of business, One Call has become the long distance provider of last resort at payphones in areas not otherwise served.
- One Call is gravely concerned about certain IXCs' publicly announced intentions to impose unilaterally onerous and unfair payphone compensation obligations on it and other small resellers beginning on November 23, the current effective date of the new payphone compensation rules. Because of the tremendous financial harm that this conduct will cause to One Call and the IXCs' other small reseller competitors, we urge the Commission to stay the effect of the new rules or otherwise take action to safeguard the public interest until it has ruled on pending petitions for reconsideration and declaratory relief as to the *Second Order on Reconsideration*.
- Alternatively, if the new rules are not stayed, or if other immediate action to safeguard the public interest is not taken, the Commission should grant One Call's petition for waiver based upon One Call's unique circumstances. One Call has tracked all payphone calls for years, has reliable systems in place for such tracking and reporting and has direct compensation arrangements with numerous payphone service providers ("PSPs"). One Call's call tracking systems are far superior to any system the IXCs could implement in the foreseeable future.
- Because the IXCs are unable to track payphone calls they route to resellers, they demand the right to reimbursement for payphone compensation on every such call, whether or not it is completed. One Call's completion rate is only 20-30 percent, due to the caller's lack of an account to which to bill the call, the called party's refusal to accept a collect call or other reasons. Thus, the IXCs' approach would increase One Call's payphone compensation obligations for such calls that are completed to a level 3-5 times the amount authorized in the *Payphone Orders* and 3-5 times the level of payphone compensation paid by the IXCs on payphone calls they complete. Because payphone calls routed by IXCs to One Call account for over 95 percent of its business, these additional compensation payments would be a significant portion of its gross revenues.
- The IXC petitions also seek to undermine or prohibit outright all PSP/reseller direct compensation agreements.
- Permitting IXCs to impose such unreasonable payphone compensation charges on competitors and prohibiting PSP/reseller compensation arrangements would violate Sections 201(b), 202(a) and 276 and would be arbitrary and capricious.
- Because of One Call's unique tracking abilities and relationships with PSPs, petitioners' approach is especially unjustified in the case of One Call. For calls not covered by compensation arrangements, IXCs could rely on One Call's tracking data, provided in the

format that AT&T proposes. IXC's also could rely on One Call's certification, backed up by an indemnification agreement, that it has agreements with PSPs covering all other calls. This approach would obviate any need for duplicative compensation payments or call tracking by IXC's. Because of One Call's commission arrangements with PSPs, IXC's need not be concerned about PSP complaints about nonpayment of compensation for calls routed to One Call.

- IXC's are attempting to use the *Second Order on Reconsideration* to acquire their reseller competitors' lists of PSP customers. IXC's don't need to see confidential customer lists; an IXC would be sufficiently protected from PSP claims by a reseller's certification that it has agreements with PSPs and its indemnification agreement with the IXC. One Call's certification would be especially reliable because all payphone calls covered by contracts with PSPs are routed by IXC's over trunks dedicated to One Call and thus can easily be identified.
- Petitioners are not waiting for an FCC decision on their petitions; they are imposing conditions now that provide them with *de facto* reconsideration and declaratory relief.
 - WorldCom is the most extreme: requires resellers to enter into agreements with all large PSPs and to provide copies of agreements to WorldCom or be subject to compensation reimbursement demands by WorldCom for all calls it routes to resellers. WorldCom attempts to justify these steps by exaggerating the burden of receiving and storing call data from resellers, but provides no cost estimates.
 - AT&T is backing off its initial proposal and concedes that the processing of necessary call tracking data from resellers is not expensive or burdensome; endorses the continuation of PSP/reseller agreements as long as resellers coordinate with IXC's.
 - Global Crossing's timing surrogate is equally invalid and unnecessary.
- Because the IXC's are imposing unilaterally the relief they seek now, One Call needs immediate relief. The Commission should delay the implementation of the new rules until the petitions are decided. Alternatively, the Commission should take other action, such as issuing a Directive prohibiting unilateral action by the IXC's. If the new rules are not stayed, or no such Directive is issued, the Commission should seek comments on One Call's petition for waiver and grant One Call an interim waiver pending decision on the petition. Rules designed for resellers that cannot track calls or that do not compensate PSPs properly are inappropriate for One Call.
- The IXC's' petitions should be denied, and the Commission should require IXC's to coordinate with resellers in a reasonable manner and specify a "default" format that all resellers may use in providing call tracking data to IXC's, unless an IXC agrees to a different format. Resellers also should not have to provide PSP contracts or names of PSPs with whom they have compensation arrangements to IXC's. A reseller should only be required to certify to an IXC that it has agreements with PSPs covering all calls not appearing in its call tracking data and to indemnify the IXC for any PSP nonpayment claims.